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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91171281
Party	Defendant Jarrow Formulas, Inc.
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Submission	Motion to Suspend for Settlement Discussions
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Date	03/09/2012
Attachments	Consent Motion to Suspend and Status Report 030912.PDF (4 pages)(128530 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PomWonderful LLC	)	Opposition (Parent) No.: 91171281
)	
Opposer,)	
)	
v.	)	CONSENT MOTION FOR SUSPENSION
	)	OF PROCEEDINGS FOR SETTLEMENT
	)	AND THIRD STATUS REPORT
Jarrow Formulas, Inc.,)	
	)	Marks and Related (Consolidated) Proceedings:
	)	Opp. No. 91171281 (Parent) re POM ^{AMAZING}
Applicant.	)	Opp. No. 91191283 re POME ^{GREAT}
	)	Opp. No. 91171284 re POME ^{SYNERGY}
	)	Opp. No. 91173117 re POM ^{OPTIMIZER}
	)	Opp. No. 91173118 re POM ^{GUARD}
	)	Opp. No. 91186414 re POME ^{ZOTIC}
	)	Opp. No. 91191995 re PRICKLY ^{POM}
	)	Opp. No. 91194226 re POM and POM

Pursuant to TBMP § 510.03(a), Applicant Jarrow Formulas, Inc. ("JFI") respectfully submits this Consent Motion to Suspend for suspension of this consolidated proceeding for 60 days. Counsel for JFI has discussed this Motion with counsel for PomWonderful LLC ("POM") and POM consents to the suspension of this consolidated proceeding for 60 days. This suspension is requested solely for good cause for the purposes of focusing the parties' time, energy and resources to settling this matter and not for purposes of delay.

In compliance with the Board's Order of February 22, 2011 to provide a progress report, the parties hereby advise the Board as follows.

Since the parties last requested an extension of time on August 31, 2011, counsel for POM provided counsel for JFI with another draft of the settlement agreement. However, because of the complications of this case, the parties are still working through drafts of the settlement agreement and negotiating final wording of the agreement. Further, lead counsel for

POM has been away on maternity leave since October 2011 so it was not feasible to move things forward during such absence. The parties anticipate a further exchange of a draft of the agreement will take place next week. Counsel are mindful of their duties to keep the parties' negotiation efforts focused and, in view of that, the parties have agreed to only a 60-day suspension of the proceeding at this time to keep the momentum of settlement going.

As stated in prior status reports, the issues between the parties in this proceeding are complicated, however, because this proceeding involves (a) multiple trademark applications applied for and owned by both POM and JFI; (b) actual use in commerce of many of the marks at issue by both POM and JFI; and (c) a number of related opposition proceedings in Canada involving similar issues, some of the same marks, actual use in commerce of some of the marks, and where a third-party is also involved.

In addition, as stated by Counsel in previous status reports, although the Board requested a recitation of the issues that have been resolved and those that remain to be resolved, Counsel cannot disclose the current terms as they have been deemed confidential by the parties and if disclosure were required it would be counter-productive to settlement. However, as Counsel previously disclosed, the parties have recognized that the issues in Canada will be resolved separately.

Therefore, at this time, the parties' believe that their time, energy and resources continue to better spent finalizing resolution of the U.S. issues in this complicated proceeding and not in engaging in the many discovery issues that would be raised should this proceeding not be suspended.

Pursuant to the Board's Order of September 7, 2011 accepting the schedule set forth in Opposer's Motion dated August 29, 2011, the current deadline for discovery to close is June 25,

2012. The parties respectfully request that the current deadlines in this proceeding be reset as follows in view of the proposed 60-day suspension:

Discover Period to Close:	8/24/2012
Thirty-day testimony period for party in position of plaintiff to close:	11/22/2012
Thirty-day testimony period for party in position of defendant to close:	1/21/2013
Fifteen-day rebuttal testimony period to close:	3/7/2013

Dated: March 9, 2012

Respectfully submitted,

/s/ Mark D. Giarratana

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***Attorney for Jarrow Formulas,
Inc.***

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 9, 2012, the foregoing document was submitted for filing to the Trademark Trial and Appeal Board through the ESTTA system and a copy of this paper has been served upon all parties, at their address of record by First Class Mail on this date.

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/s/ Mark D. Giarratana

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